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[G.R. No. 176951, April 12, 2011]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP), REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS; CITY OF CALBAYOG, REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO; AND JERRY P. TREÑAS, IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF BAYBAY, PROVINCE OF LEYTE; MUNICIPALITY OF BOGO, PROVINCE OF CEBU; MUNICIPALITY OF CATBALOGAN, PROVINCE OF WESTERN SAMAR; MUNICIPALITY OF TANDAG, PROVINCE OF SURIGAO DEL SUR; MUNICIPALITY OF BORONGAN, PROVINCE OF EASTERN SAMAR; AND MUNICIPALITY OF TAYABAS, PROVINCE OF QUEZON, RESPONDENTS.

[G.R. NO. 177499]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP), REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS; CITY OF CALBAYOG, REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO; AND JERRY P. TREÑAS, IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF LAMITAN, PROVINCE OF BASILAN; MUNICIPALITY OF TABUK, PROVINCE OF KALINGA; MUNICIPALITY OF BAYUGAN, PROVINCE OF AGUSAN DEL SUR; MUNICIPALITY OF BATAC, PROVINCE OF ILOCOS NORTE; MUNICIPALITY OF MATI, PROVINCE OF DAVAO ORIENTAL; AND MUNICIPALITY OF GUIHULNGAN, PROVINCE OF NEGROS ORIENTAL, RESPONDENTS.

[G.R. NO. 178056]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP), REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS; CITY OF CALBAYOG, REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO; AND JERRY P. TREÑAS, IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF CABADBARAN, PROVINCE OF AGUSAN DEL NORTE; MUNICIPALITY OF CARCAR, PROVINCE OF CEBU; MUNICIPALITY OF EL SALVADOR, PROVINCE OF MISAMIS ORIENTAL; MUNICIPALITY OF NAGA, CEBU; AND DEPARTMENT OF BUDGET AND MANAGEMENT, RESPONDENTS.

R E S O L U T I O N

BERSAMIN, J.:

We consider and resolve the *Ad Cautelam Motion for Reconsideration* filed by the petitioners *vis-à-vis* the Resolution promulgated on February 15, 2011.

To recall, the Resolution promulgated on February 15, 2011 granted the *Motion for Reconsideration* of the respondents presented against the Resolution dated August 24, 2010, reversed the Resolution dated August 24, 2010, and declared the 16 Cityhood Laws -- Republic Acts Nos. 9389, 9390, 9391, 9392, 9393, 9394, 9398, 9404, 9405, 9407, 9408, 9409, 9434, 9435, 9436, and 9491 -- constitutional.

Now, the petitioners anchor their *Ad Cautelam Motion for Reconsideration* upon the primordial ground that the Court could no longer modify, alter, or amend its judgment declaring the Cityhood Laws unconstitutional due to such judgment having long become final and executory. They submit that the Cityhood Laws violated Section 6 and Section 10 of Article X of the Constitution, as well as the Equal Protection Clause.

The petitioners specifically ascribe to the Court the following errors in its promulgation of the assailed February 15, 2011 Resolution, to wit:

I. THE HONORABLE COURT HAS NO JURISDICTION TO PROMULGATE THE RESOLUTION OF 15 FEBRUARY 2011 BECAUSE THERE IS NO LONGER ANY ACTUAL CASE OR CONTROVERSY TO SETTLE.

II. THE RESOLUTION CONTRAVENES THE 1997 RULES OF CIVIL PROCEDURE AND RELEVANT SUPREME COURT ISSUANCES.

III. THE RESOLUTION UNDERMINES THE JUDICIAL SYSTEM IN ITS DISREGARD OF THE PRINCIPLES OF RES JUDICATA AND THE DOCTRINE OF IMMUTABILITY OF FINAL JUDGMENTS.

IV. THE RESOLUTION ERRONEOUSLY RULED THAT THE SIXTEEN (16) CITYHOOD BILLS DO NOT VIOLATE ARTICLE X, SECTIONS 6 AND 10 OF THE 1987 CONSTITUTION.

V. THE SIXTEEN (16) CITYHOOD LAWS VIOLATE THE EQUAL PROTECTION CLAUSE OF THE CONSTITUTION AND THE RIGHT OF LOCAL GOVERNMENTS TO A JUST SHARE IN THE NATIONAL TAXES.

Ruling

Upon thorough consideration, we deny the *Ad Cautelam Motion for Reconsideration* for its lack of merit.

I.
Procedural Issues

With respect to the first, second, and third assignments of errors, *supra*, it appears that the petitioners assail the jurisdiction of the Court in promulgating the February 15, 2011 Resolution, claiming that the decision herein had long become final and executory. They state that the Court thereby violated rules of procedure, and the

principles of *res judicata* and immutability of final judgments.

The petitioners posit that the controversy on the Cityhood Laws ended with the April 28, 2009 Resolution denying the respondents' second motion for reconsideration *vis-à-vis* the November 18, 2008 Decision for being a prohibited pleading, and in view of the issuance of the *entry of judgment* on May 21, 2009.

The Court disagrees with the petitioners.

In the April 28, 2009 Resolution, the Court ruled:

> By a vote of 6-6, the Motion for Reconsideration of the Resolution of 31 March 2009 is DENIED for lack of merit. The motion is denied since there is no majority that voted to overturn the Resolution of 31 March 2009.
>
> The Second Motion for Reconsideration of the Decision of 18 November 2008 is DENIED for being a prohibited pleading, and the Motion for Leave to Admit Attached Petition in Intervention dated 20 April 2009 and the Petition in Intervention dated 20 April 2009 filed by counsel for Ludivina T. Mas, et al. are also DENIED in view of the denial of the second motion for reconsideration. No further pleadings shall be entertained. Let entry of judgment be made in due course.
>
> Justice Presbitero J. Velasco, Jr. wrote a Dissenting Opinion, joined by Justices Consuelo Ynares-Santiago, Renato C. Corona, Minita Chico-Nazario, Teresita Leonardo-De Castro, and Lucas P. Bersamin. Chief Justice Reynato S. Puno and Justice Antonio Eduardo B. Nachura took no part. Justice Leonardo A. Quisumbing is on leave.[1]

Within 15 days from receipt of the April 28, 2009 Resolution, the respondents filed a *Motion To Amend Resolution Of April 28, 2009 By Declaring Instead That Respondents' "Motion for Reconsideration Of the Resolution Of March 31, 2009" And "Motion For Leave To File, And To Admit Attached `Second Motion For Reconsideration Of The Decision Dated November 18, 2008' Remain Unresolved And To Conduct Further Proceedings Thereon*, arguing therein that a determination of the issue of constitutionality of the 16 Cityhood Laws upon a motion for reconsideration by an equally divided vote was not binding on the Court as a valid precedent, citing the separate opinion of then Chief Justice Reynato S. Puno in *Lambino v. Commission on Elections*.[2]

Thus, in its June 2, 2009 Resolution, the Court issued the following clarification of the April 28, 2009 Resolution, *viz*:

> As a rule, a second motion for reconsideration is a prohibited pleading pursuant to Section 2, Rule 52 of the Rules of Civil Procedure which provides that: "No second motion for reconsideration of a judgment or final resolution by the same party shall be entertained." Thus, a decision becomes final and executory after 15 days from receipt of the denial of the first motion for reconsideration.

However, when a motion for leave to file and admit a second motion for reconsideration is granted by the Court, the Court therefore allows the filing of the second motion for reconsideration. In such a case, the second motion for reconsideration is no longer a prohibited pleading.

In the present case, the Court voted on the second motion for reconsideration filed by respondent cities. In effect, the Court allowed the filing of the second motion for reconsideration. Thus, the second motion for reconsideration was no longer a prohibited pleading. However, for lack of the required number of votes to overturn the 18 November 2008 Decision and 31 March 2009 Resolution, the Court denied the second motion for reconsideration in its 28 April 2009 Resolution.[3]

As the result of the aforecited clarification, the Court resolved to expunge from the records several pleadings and documents, including respondents' *Motion To Amend Resolution Of April 28, 2009 etc*.

The respondents thus filed their *Motion for Reconsideration of the Resolution of June 2, 2009*, asseverating that their *Motion To Amend Resolution Of April 28, 2009 etc.* was *not* another motion for reconsideration of the November 18, 2008 Decision, because it assailed the April 28, 2009 Resolution with respect to the tie-vote on the respondents' *Second Motion For Reconsideration*. They pointed out that the *Motion To Amend Resolution Of April 28, 2009 etc.* was filed on May 14, 2009, which was within the 15-day period from their receipt of the April 28, 2009 Resolution; thus, the *entry of judgment* had been prematurely made. They reiterated their arguments with respect to a tie-vote upon an issue of constitutionality.

In the September 29, 2009 Resolution,[4] the Court required the petitioners to comment on the *Motion for Reconsideration of the Resolution of June 2, 2009* within 10 days from receipt.

As directed, the petitioners filed their *Comment Ad Cautelam With Motion to Expunge*.

The respondents filed their *Motion for Leave to File and to Admit Attached "Reply to Petitioners' `Comment Ad Cautelam With Motion to Expunge'"*, together with the *Reply*.

On November 17, 2009, the Court resolved to note the petitioners' *Comment Ad Cautelam With Motion to Expunge*, to grant the respondents' *Motion for Leave to File and Admit Reply to Petitioners' Comment Ad Cautelam with Motion to Expunge*, and to note the respondents' *Reply to Petitioners' Comment Ad Cautelam with Motion to Expunge*.

On December 21, 2009, the Court, resolving the *Motion To Amend Resolution Of April 28, 2009 etc.* and voting anew on the *Second Motion For Reconsideration* in order to reach a concurrence of a majority, promulgated its Decision granting the

motion and declaring the Cityhood Laws as constitutional,[5] disposing thus:

> WHEREFORE, respondent LGUs' Motion for Reconsideration dated June 2, 2009, their "Motion to Amend the Resolution of April 28, 2009 by Declaring Instead that Respondents' `Motion for Reconsideration of the Resolution of March 31, 2009' and `Motion for Leave to File and to Admit Attached Second Motion for Reconsideration of the Decision Dated November 18, 2008' Remain Unresolved and to Conduct Further Proceedings," dated May 14, 2009, and their second Motion for Reconsideration of the Decision dated November 18, 2008 are GRANTED. The June 2, 2009, the March 31, 2009, and April 31, 2009 Resolutions are REVERSED and SET ASIDE. The entry of judgment made on May 21, 2009 must accordingly be RECALLED.
>
> The instant consolidated petitions and petitions-in-intervention are DISMISSED. The cityhood laws, namely Republic Act Nos. 9389, 9390, 9391, 9392, 9393, 9394, 9398, 9404, 9405, 9407, 9408, 9409, 9434, 9435, 9436, and 9491 are declared VALID and CONSTITUTIONAL.
>
> SO ORDERED.

On January 5, 2010, the petitioners filed an *Ad Cautelam Motion for Reconsideration* against the December 21, 2009 Decision.[6] On the same date, the petitioners also filed a *Motion to Annul Decision of 21 December 2009*.[7]

On January 12, 2010, the Court directed the respondents to comment on the motions of the petitioners.[8]

On February 4, 2010, petitioner-intervenors City of Santiago, City of Legazpi, and City of Iriga filed their separate *Manifestations with Supplemental Ad Cautelam Motions for Reconsideration*.[9] Similar manifestations with supplemental motions for reconsideration were filed by other petitioner-intervenors, specifically: City of Cadiz on February 15, 2010;[10] City of Batangas on February 17, 2010;[11] and City of Oroquieta on February 24, 2010.[12] The Court required the adverse parties to comment on the motions.[13] As directed, the respondents complied.

On August 24, 2010, the Court issued its Resolution reinstating the November 18, 2008 Decision.[14]

On September 14, 2010, the respondents timely filed a *Motion for Reconsideration of the "Resolution" Dated August 24, 2010*.[15] They followed this by filing on September 20, 2010 a *Motion to Set "Motion for Reconsideration of the `Resolution' dated August 24, 2010" for Hearing*.[16] On November 19, 2010, the petitioners sent in their *Opposition [To the "Motion for Reconsideration of `Resolution' dated August 24, 2010"]*.[17] On November 30, 2010,[18] the Court noted, among others, the petitioners' *Opposition*.

On January 18, 2011,[19] the Court denied the respondents' *Motion to Set "Motion*